Navy & Marine Corps Policy on Sexual Harassment

SECNAV POLICY

- Sexual harassment is prohibited.
- All DoN personnel will be provided a work environment free from unlawful discrimination, which includes sexual harassment.
- Off-duty or non-duty behaviors that affect the workplace may also be considered to be sexual harassment.

TRAINING

- All DoN personnel will be educated and trained upon accession and annually thereafter, in the areas of sexual harassment . . .
  - Identification
  - Prevention
  - Resolution
  - Elimination

COMMAND CLIMATE

- Individuals who believe they have been sexually harassed shall be provided the opportunity to seek resolution and redress.
- Commanders/supervisors will ensure notification of sexual harassment can be made in a command climate that does not tolerate acts of reprisal, intimidation, or further acts of harassment.

REPORTED INCIDENTS

- Shall be investigated and resolved at the lowest possible level.
- Shall be resolved promptly and with sensitivity.
- Shall be handled confidentially to the extent possible.

SUPPORT

- Counseling support or referral services will be made available for all personnel involved in incidents of sexual harassment.

NAVY'S DEFINITION OF SEXUAL HARASSMENT

- **A form of discrimination that involves**:
  - –Unwelcome sexual advances;
  - –Requests for sexual favors; or
  - –Other verbal or physical conduct of a sexual nature when**…**

DEFINITION OF SEXUAL HARASSMENT (con't)

- Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career;
- Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or . . .

DEFINITION OF SEXUAL HARASSMENT (con't)

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

EXPLANATION OF TERMS

- **Workplace** is an expansive term for military members and may include conduct on or off duty, 24 hours a day.
- **Work Environment** is the workplace or any other place that is work-connected, as well as the conditions or atmosphere under which people are required to work.

WORK ENVIRONMENT INCLULDES:

- Office
- Office building
- Base or installation
- Ship
- Aircraft or vehicles
- Any place where engaged in DoD business
- Command-sponsored social, recreational and sporting events, regardless of location

ACCOUNTABILITY & SEXUAL HARASSMENT

- **No individual in the DoN shall**:
  - Commit sexual harassment.
  - Take reprisal action.
  - Knowingly make a false accusation.
  - While in a supervisory or command position, condone or ignore sexual harassment of which he/she has knowledge.

CONSIDERATIONS

- Appropriate action to resolve sexual harassment incidents depends upon the circumstances surrounding the incident.
- Sexual harassment incidents cover a wide range of behaviors from verbal comments to physical acts.
  - May be subtle or overt.

RANGE OF ACTIONS

- Informal counseling
- Evaluation and fitness report comments
- Administrative separation
- Punitive measures under the UCMJ

MILITARY SEPARATION

Military members of the USN/USMC shall be processed for administrative separation on the first substantiated incident of sexual harassment involving any of the following . . .

SEPARATION CASES

- Actions, threats, or attempts to influence another's career or job in exchange for sexual favors;
- Rewards in exchange for sexual favors;
- Physical contact of a sexual nature, which if charged as a violation of the UCMJ, could result in punitive discharge.

Review

REASONABLE PERSON STANDARD

- An objective test used to determine if particular behaviors can be considered sexual harassment.
- Requires hypothetical exposure of a reasonable person to the same set of facts and circumstances.
  - "Would you want this to happen to you?"

REASONABLE PERSON STANDARD (con't)

- If the behavior is of an offensive, sexual nature, the behavior is sexual harassment.
- The standard considers the complainant's perspective and does not rely upon stereotyped notions of acceptable behavior within that particular work environment.

QUESTIONS?

1st CRITERIA

- It must be unwelcome.
  - Behavior a person does not ask for and finds undesirable or offensive (based on the recipient's perception).

2nd CRITERIA

- It must be sexual in nature.
  - Telling sexually explicit jokes or making derogatory comments.
  - Dispalying sexually suggestive pictures.
  - Talking about sex or sexual orientation.
  - Touching in a suggestive manner or groping.

3rd CRITERIA

- It must occur in or impact on the work environment.
  - Quid pro quo.
  - Work-related decisions made based on the submission to or rejection of the unwelcome behavior.
  - Behavior that interferes with another's work performance.
  - Behavior that produces an offensive, intimidating, or abusive work atmosphere.

CREATING A HOSTILE ENVIRONMENT

- Using sexually explicit or sexually offensive language.
- Displaying sexually-oriented posters or calendars.
- Touching someone in a suggestive manner.
- Giving someone unwelcome letters, cards, or gifts.
- Unwanted or uninvited pressure for dates.

HOSTILE ENVIRONMENT (con’t)

- Certain types of unwelcome sexual behavior do not have to create a hostile environment to be considered sexual harassment.
- If the behavior occurs in the workplace and is unreasonable, the behavior may be considered sexual harassment, even if displayed only once.
- Other less obvious behaviors can become sexual harassment if they are repeated.

QUESTIONS?

TRAFFIC LIGHT ILLUSTRATION

- Green Zone
- Yellow Zone
- Red Zone

GREEN ZONE

- Green on the traffic light means “go,” and behavior in the Green Zone is acceptable.
- Green Zone behavior is not sexual harassment.

GREEN ZONE BEHAVIOR

- Touching that could not reasonably be perceived in a sexual way.
- Counseling on military appearance.
- Social interaction.
- Showing concern or encouragement.
- A polite compliment.
- Friendly conversation.

GREEN ZONE EXAMPLES

- A male Marine Platoon Sergeant counsels a single, female Lance Corporal (E-3) on using protection if she is going to be sexually active.
- A female Petty Officer is told to go home and change when she shows up for a command function in inappropriate clothing.

GREEN ZONE EXAMPLES

- A female Lieutenant tells a male Sergeant to limit telephone calls from his girlfriend to emergencies only during working hours.
- A male Captain pats a female Petty Officer on the back in congratulations for receiving an award or tells her she looks sharp in uniform.

YELLOW ZONE

- The yellow light means “caution.”
- Includes behaviors that many people would find unacceptable and could be considered to be sexual harassment.

YELLOW ZONE BEHAVIOR

- Violating personal space
- Whistling
- Questions about personal life
- Lewd or sexually suggestive comments
- Suggestive posters or calendars
- Off-color jokes

YELLOW ZONE BEHAVIOR

- Leering
- Staring
- Repeated requests for dates
- Foul language
- Unwanted letters or poems
- Sexually suggestive touching or gesturing

YELLOW ZONE EXAMPLES

- A male Petty Officer asks a female co-worker about her sex life.

  CAUTION: If the co-worker tells the Petty Officer his questions are unwelcome but he continues to ask either in the same conversation or at a later time, this is sexual harassment.

YELLOW ZONE EXAMPLES

- A female Lieutenant massages the shoulders of a male Sergeant while he works on a project at the computer.

  CAUTION: The Sergeant tries to shrug her off or tells her his wife wouldn't like that, but the Lieutenant laughs and doesn't take the hint. This is sexual harassment.

YELLOW ZONE EXAMPLES

- A male Chief Petty Officer’s touch lingers on the women with whom he works and who must come in contact with him.
- This is sexual harassment.

YELLOW ZONE EXAMPLES

- The Marines in the motor pool have always talked and joked about sex while they work, but a female Private First Class checks in and tells her supervisors the sex talk makes her uncomfortable. The supervisors tells her to lighten up and the talk continues.
- This is sexual harassment.

RED ZONE BEHAVIORS

- The red light means STOP!
- These behaviors are always considered sexual harassment.

RED ZONE BEHAVIORS

- Sexual favors in return for employment rewards.
- Threats if sexual favors are not provided.
- Sexually explicit pictures or remarks.
- Using status to request dates.
- Obscene letters or comments.

RED ZONE & CRIMINAL CONDUCT

- The most severe forms of sexual harassment constitute criminal conduct and include:
  - Sexual assault,
  - Stalking, and/or
  - Invasion of living quarters.

RED ZONE EXAMPLES

- A male administrative Chief propositions young enlisted women in the command and tells them he has something on them, such as a DUI.
- A group of male midshipmen surround a female midshipman at a party and won’t let her leave.

RED ZONE EXAMPLES

- A female Chief Petty Officer tells a male Chief Petty Officer (co-worker) that she had a sexual dream about him and describes it to him in explicit detail.

RED ZONE EXAMPLES

- While TAD, a male Major with connections at Marine Corps Headquarters invites a female Staff Sergeant to his room after drinks at a bar, telling her with a wink, “Maybe we can work out something to get you the special assignment you want.”

DISCUSSION

- The traffic light illustrations are examples and used as guidance.
- Individuals believe they are being sexually harassed based on their own perceptions.
- Each sexual harassment incident is judged on the totality of facts in each case.
- An individual’s judgment may vary on the same facts at different times.

QUESTIONS?

RESOLVING SEXUAL HARASSMENT

- Informal Resolution System (IRS). Whenever possible, conflicts arising from offensive or unwelcome behavior should be resolved at the lowest possible level. The IRS is designed to address behaviors that could potentially become sexual harassment or behaviors which are inappropriate but do not constitute an offense under the UCMJ.

RESOLVING SEXUAL HARASSMENT

- Personal Address. Individuals who believe they have been sexually harassed are encouraged to address their concerns or objections regarding the incident to the offender in person, in writing, or through an informal third party.

RESOLVING SEXUAL HARASSMENT

- Persons who are subjected to or observe objectionable behavior should promptly notify the chain of command if:
  - The objectionable behavior does not stop.
  - The situation is not resolved.
  - Addressing the objectionable behavior directly with the person concerned is not reasonable under the circumstances.
  - The behavior is clearly criminal in nature.

RESOLVING SEXUAL HARASSMENT

- What if the person demonstrating the objectionable behavior is a direct superior in the chain of command?
- What if the direct superior condones the conduct or ignores a report of sexual harassment?

PROMPTLY COMMUNICATE THE INCIDENT THROUGH THE FORMAL COMPLAINT SYSTEM.

FORMAL COMPLAINTS

- Formal Complaints. All naval personnel have the right and responsibility to lodge a legitimate formal complaint of sexual harassment without fear of reprisal using one of the following methods:
  - Mast
  - Complaint of Wrongs (Article 138, UCMJ)
  - Redress of Wrongs (Article 1150, USNAVREGS)

FORMAL COMPLAINTS

- As an alternative to the normal chain of command, a Sailor or Marine may lodge complaints and provide facts to the Command Inspector or the Deputy Naval Inspector General.
- Naval personnel may write individual letters to members of Congress at any time concerning sexual harassment incidents.

NROTC UNIT CO'S POLICY

- *(Insert Unit Co's policy statement here.)*

- All midshipmen are expected to meet all standards of behavior regarding sexual harassment.

Leadership is the key to eliminating sexual harassment!

Seniors will:

- Set the example, treating all with dignity & respect.
- Foster a climate free of discrimination.
- Not ignore or condone sexual harassment.
- Take action to ensure reprisal/retaliation does not occur.
- Provide annual training.
- Address prohibited behavior through counseling, fitness reports/evaluations, reassignment, and/or disciplinary action.

QUESTIONS & SUMMARY